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AMENDED IN SENATE APRIL 15, 2013

## SENATE BILL

**No. 468**

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### **Introduced by Senators Emmerson and Beall**

(~~Coauthor~~: *Coauthors: Assembly Member Members Chesbro and Mitchell*)

February 21, 2013

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An act to add Section 4685.8 to the Welfare and Institutions Code, relating to developmental services.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 468, as amended, Emmerson. Developmental services: statewide Self-Determination Program.

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services contracts with regional centers to provide services and supports to individuals with developmental disabilities. Under existing law, the regional centers purchase needed services and supports for individuals with developmental disabilities through approved service providers, or arrange for their provision through other publicly funded agencies. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance

with prescribed requirements. Existing law establishes, contingent upon approval of a federal waiver, the Self-Directed Services Program, and requires the program to be available in every regional center catchment area to provide participants, within an individual budget, greater control over needed services and supports.

This bill would require the department, contingent upon approval of federal funding, to establish and implement a state Self-Determination Program, as defined, that would be available in every regional center catchment area to provide participants and their families, within an individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPP, in accordance with prescribed requirements. The statewide program would be phased in over 3 years, serving up to 2,500 regional center consumers during the phase-in period, and thereafter, available on a voluntary basis to all eligible regional center consumers. The bill would require the department to, among other things, apply for federal funding for the program by December 31, 2014.

This bill would provide that program participants receive an individual budget, as prescribed, to be used for the purchase of services and supports necessary to implement the participant's IPP. The bill would require program participants to agree to, among other things, manage self-determination services and supports within the individual budget. The bill would require the department to require nonvendored providers of services and supports who meet specified criteria to submit to a criminal background check, as specified. *The bill would require the department, with respect to this background check, to submit fingerprint images and related information to the Department of Justice, and would require the Department of Justice to provide specified responses to the department. The bill would require the Department of Justice to charge a fee sufficient to cover the cost of processing this request.* The bill would, among other things, require each regional center to be responsible for implementing the program as a term of its contract, and to establish a local voluntary advisory committee to provide oversight of the project. The bill would require the State Council on Developmental Disabilities to form a volunteer statewide committee to, among other things, identify self-determination best practices. The bill would require the State Council on Developmental Disabilities, *in collaboration with specified entities*, to issue to the Legislature a report regarding the status of the program and recommendations to the program, as specified, and would require the department, beginning January 10, 2017, to provide to the

appropriate policy and fiscal committees of the Legislature prescribed information relating to the program.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) In 1998, the Legislature expanded the Lanterman  
4 Developmental Disabilities Services Act to include  
5 self-determination pilot projects. Those pilot projects were  
6 continued by the Legislature in 2002 and 2003. However, the pilot  
7 projects were only available at three regional centers pursuant to  
8 Section 13 of Chapter 1043 of the Statutes of 1998, as amended,  
9 and two additional regional centers pursuant to Article 4  
10 (commencing with Section 4669.2) of Chapter 5 of Division 4.5  
11 of the Welfare and Institutions Code, and the number of individuals  
12 served by the local self-determination pilot projects remains small  
13 at about 140 regional center consumers.

14 (b) As reflected in the State Department of Developmental  
15 Services 2002 Report to the Legislature, the pilot projects remain  
16 an innovative, cost-effective, and successful way of providing  
17 services to regional center consumers and their families. The  
18 findings in the report show that self-determination pilot project  
19 participants were happy and experienced more freedom and  
20 responsibility in controlling the direction of their services and life  
21 choices, and the project was cost neutral in the aggregate. The  
22 report also found that good self-determination requires intensive  
23 person-centered planning, collaboration, and follow-along services  
24 and supports.

25 (c) Most other states have self-directed or self-determination  
26 services as a model for providing services. Many California  
27 consumers and families have asked for a statewide expansion of  
28 the pilot project believing it will do the following: increase  
29 innovative and effective services, eliminate bureaucracy, and  
30 increase choices for consumers and parents, thereby allowing them  
31 to increase their control of services and supports by easily  
32 navigating increasingly complex service systems.

(d) Consumers in traditionally underserved linguistic, cultural, socioeconomic, and ethnic communities have unique challenges in accessing needed regional center services that have been impacted by service limitations imposed as a response to California's recent budget shortfalls. This is particularly true for consumers living at home with a parent or guardian. The Self-Determination Program offers increased service flexibility, which will help promote access to needed services for these consumers and their families.

(e) This act allows for voluntary participation in the Self-Determination Program in all 21 regional centers and ensures cost-neutrality and a consistent statewide method of administration. The intent of this act is to ensure that the program is available to all consumers regardless of geographic location, economic or educational background, or race or ethnicity.

(f) To ensure these outcomes are achieved, it is the intent of the Legislature that the State Department of Developmental Services and regional centers be responsible for oversight and monitoring of funds used for the Self-Determination Program and the achievement of consumer outcomes.

(g) In addition, the intent of this act is that the Self-Determination Program be phased in over a three-year period and that the program will continue to be available to all consumers as an option after the initial phase-in period ends.

SEC. 2. Section 4685.8 is added to the Welfare and Institutions Code, to read:

4685.8. (a) The department shall implement a statewide Self-Determination Program. The Self-Determination Program shall be available in every regional center catchment area to provide participants and their families, within an individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPP. The statewide Self-Determination Program shall be phased in over three years, and during this phase-in period, shall serve up to 2,500 regional center consumers, inclusive of the remaining participants in the self-determination pilot projects authorized pursuant to Section 13 of Chapter 1043 of the Statutes of 1998, as amended, and Article 4 (commencing with Section 4669.2) of Chapter 5. Following the phase-in period, the program shall be available on a voluntary basis to all regional center

1 consumers who are eligible for the Self-Determination Program.  
2 The program shall be available to individuals who reflect the  
3 disability, ethnic, and geographic diversity of the state.

4 (b) The department in establishing the statewide program shall  
5 do both of the following:

6 (1) For the first three years of the Self-Determination Program,  
7 determine, as part of the contracting process described in Sections  
8 4620 and 4629, the number of participants each regional center  
9 shall serve in its Self-Determination Program. To ensure that the  
10 program is available on an equitable basis to participants in all  
11 regional center catchment areas, the number of Self-Determination  
12 Program participants in each regional center shall be based on the  
13 relative percentage of total consumers served by the regional  
14 centers minus any remaining participants in the self-determination  
15 pilot projects authorized pursuant to Section 13 of Chapter 1043  
16 of the Statutes of 1998, as amended, and Article 4 (commencing  
17 with Section 4669.2) of Chapter 5 *or another equitable basis*.

18 (2) Ensure all of the following:

19 (A) Oversight of expenditure of self-determined funds and the  
20 achievement of participant outcomes over time.

21 (B) Increased participant control over which services and  
22 supports best meet their needs and the IPP objectives. A  
23 participant's unique support system may include the purchase of  
24 existing service offerings from service providers or local  
25 businesses, hiring his or her own support workers, or negotiating  
26 unique service arrangements with local community resources.

27 (C) Comprehensive person-centered planning, including an  
28 individual budget and services that are outcome based.

29 (D) Consumer and family training to ensure understanding of  
30 the principles of self-determination, the planning process, and the  
31 management of budgets, services, and staff.

32 (E) Choice of independent facilitators who can assist with the  
33 person-centered planning process and choice of financial  
34 management services providers vendored by regional centers who  
35 can assist with payments and provide employee-related services.

36 (F) Innovation that will more effectively allow participants to  
37 achieve their goals.

38 (c) For purposes of this section, the following definitions shall  
39 apply:

(1) “Financial management services” means services or functions that assist the participant to manage and direct the distribution of funds contained in the individual budget, and ensure that the participant has the financial resources to implement his or her IPP throughout the year. These may include bill paying services and activities that facilitate the employment of service and support workers by the participant, including, but not limited to, fiscal accounting, tax withholding, compliance with relevant state and federal employment laws, assisting the participant in verifying ~~vendor~~ *provider* qualifications, including criminal background checks, and expenditure reports. The financial management services provider shall meet the requirements of Sections 58884, 58886, and 58887 of Title 17 of the California Code of Regulations and other specific qualifications established by the department. The costs of financial management services shall be paid by the participant out of his or her individual budget, except for the cost of obtaining the criminal background check specified in subdivision (w).

(2) “Independent facilitator” means a person, selected and directed by the participant, who is not otherwise providing services to the participant pursuant to his or her IPP and is not employed by a person providing services to the participant. The independent facilitator may assist the participant in making informed decisions about the individual budget, and in locating, accessing, and coordinating services and supports consistent with the participant’s IPP. He or she is available to assist in identifying immediate and long-term needs, developing options to meet those needs, leading, participating, or advocating on behalf of the participant in the person-centered planning process and development of the IPP, and obtaining identified services and supports. The cost of the independent facilitator, if any, shall be paid by the participant out of his or her individual budget. An independent facilitator shall receive training in the principles of self-determination, the person-centered planning process, and the other responsibilities described in this paragraph at his or her own cost.

(3) “Individual budget” means the amount of regional center purchase of service funding available to the participant for the purchase of services and supports necessary to implement the IPP. The individual budget shall be determined using a fair, equitable, and transparent methodology.

1 (4) “IPP” means individual program plan, as described in Section  
2 4646.

3 (5) “Participant” means an individual, and when appropriate,  
4 his or her parents, legal guardian or conservator, or authorized  
5 representative, who has been deemed eligible for, and has  
6 voluntarily agreed to participate in, the Self-Determination  
7 Program.

8 (6) “Self-determination” means a voluntary delivery system  
9 consisting of a defined and comprehensive mix of services and  
10 supports, selected and directed by a participant through  
11 person-centered planning, in order to meet the objectives in his or  
12 her IPP. Self-determination services and supports are designed to  
13 assist the participant to achieve personally defined outcomes in  
14 community settings that promote inclusion. The Self-Determination  
15 Program shall only fund services and supports provided pursuant  
16 to this division that the federal Centers for Medicare and Medicaid  
17 Services determines are eligible for federal financial participation.

18 (d) Participation in the Self-Determination Program is fully  
19 voluntary. A participant may choose to participate in, and may  
20 choose to leave, the Self-Determination Program at any time. A  
21 regional center shall not require or prohibit participation in the  
22 Self-Determination Program as a condition of eligibility for, or  
23 the delivery of, services and supports otherwise available under  
24 this division. Participation in the Self-Determination Program shall  
25 be available to any regional center consumer who meets the  
26 following eligibility requirements:

27 (1) The participant has a developmental disability, as defined  
28 in Section 4512 and is ~~receiving, or is eligible to receive,~~ *receiving*  
29 services pursuant to this division.

30 (2) The consumer does not live in a licensed long-term health  
31 care facility, as defined in paragraph (44) of subdivision (a) of  
32 Section 54302 of Title 17 of the California Code of Regulations.  
33 An individual, and when appropriate his or her parent, legal  
34 guardian or conservator, or authorized representative, who is not  
35 eligible to participate in the Self-Determination Program pursuant  
36 to this paragraph may request that the regional center provide  
37 person-centered planning services in order to make arrangements  
38 for transition to the Self-Determination Program, provided that he  
39 or she is reasonably expected to transition to the community within

1 90 days. In that case, the regional center shall initiate  
2 person-centered planning services within 60 days of that request.

3 (3) The participant agrees to all of the following terms and  
4 conditions:

5 (A) The participant shall receive an orientation to the  
6 Self-Determination Program prior to enrollment, which includes  
7 the principles of self-determination, the role of the independent  
8 facilitator and the financial management services provider,  
9 person-centered planning, and development of a budget.

10 (B) The participant shall utilize the services and supports  
11 available within the Self-Determination Program only when generic  
12 services and supports are not available.

13 (C) The participant shall only purchase services and supports  
14 necessary to implement his or her IPP and shall comply with any  
15 and all other terms and conditions for participation in the  
16 Self-Determination Program described in this section.

17 (D) The participant shall manage Self-Determination Program  
18 services and supports within his or her individual budget.

19 (E) The participant shall utilize the services of a financial  
20 management services provider of his or her own choosing and who  
21 is vendored by a regional center.

22 (F) The participant may utilize the services of an independent  
23 facilitator of his or her own choosing for the purpose of providing  
24 services and functions as described in paragraph (2) of subdivision  
25 (c). If the participant elects not to use an independent facilitator,  
26 he or she may use his or her regional center service coordinator to  
27 provide the services and functions described in paragraph (2) of  
28 subdivision (c).

29 (e) A participant who is not Medi-Cal eligible may participate  
30 in the Self-Determination Program and receive self-determination  
31 services and supports if all other program eligibility requirements  
32 are met and the services and supports are otherwise eligible for  
33 federal financial participation.

34 (f) An individual receiving services and supports under a  
35 self-determination pilot project authorized pursuant to Section 13  
36 of Chapter 1043 of the Statutes of 1998, as amended, or pursuant  
37 to Article 4 (commencing with Section 4669.2) of Chapter 5, may  
38 elect to continue to receive self-determination services and supports  
39 pursuant to this section or the regional center shall provide for the  
40 participant's transition from the self-determination pilot program



1 to other services and supports. This transition shall include the  
2 development of a new IPP that reflects the services and supports  
3 necessary to meet the individual's needs. The regional center shall  
4 ensure that there is no gap in services and supports during the  
5 transition period.

6 (g) The additional federal financial participation funds generated  
7 by the former participants of the self-determination pilot projects  
8 authorized pursuant to Section 13 of Chapter 1043 of the Statutes  
9 of 1998, as amended, or pursuant to Article 4 (commencing with  
10 Section 4669.2) of Chapter 5, shall be used as follows:

11 (1) First, to offset the cost to the department for the criminal  
12 background check conducted pursuant to subdivision (w), and  
13 other administrative costs incurred by the department in  
14 implementing the Self-Determination Program.

15 (2) ~~With any the~~ remaining funds, to offset the ~~administrative~~  
16 costs to the regional centers in implementing the  
17 Self-Determination Program, including, but not limited to,  
18 *operations costs for caseload ratio enhancement, training for*  
19 ~~consumers, family members, and~~ regional center staff, costs  
20 associated with the participant's initial person-centered planning  
21 meeting, ~~and the development of the participant's initial individual~~  
22 ~~budget budget, and the costs associated with training consumers~~  
23 ~~and family members.~~

24 (h) If at any time during participation in the Self-Determination  
25 Program a regional center determines that a participant is no longer  
26 eligible to continue in, or a participant voluntarily chooses to exit,  
27 the Self-Determination Program, the regional center shall provide  
28 for the participant's transition from the Self-Determination Program  
29 to other services and supports. This transition shall include the  
30 development of a new IPP that reflects the services and supports  
31 necessary to meet the individual's needs. The regional center shall  
32 ensure that there is no gap in services and supports during the  
33 transition period.

34 (i) An individual determined to be ineligible for or who  
35 voluntarily exits the Self-Determination Program shall be permitted  
36 to return to the Self-Determination Program upon meeting all  
37 applicable eligibility criteria and upon approval of the participant's  
38 planning team, as described in subdivision (j) of Section 4512. An  
39 individual who has voluntarily exited the Self-Determination  
40 Program shall not return to the program for at least 12 months.

1 During the first three years of the program, the individual's right  
2 to return to the program is conditioned on his or her regional center  
3 not having reached the participant cap imposed by ~~subdivision (a)~~  
4 *paragraph (1) of subdivision (b)*.

5 (j) An individual who participates in the Self-Determination  
6 Program may elect to continue to receive self-determination  
7 services and supports if he or she transfers to another regional  
8 center catchment area, provided that he or she remains eligible for  
9 the Self-Determination Program pursuant to subdivision (d). The  
10 balance of the participant's individual budget shall be reallocated  
11 to the regional center to which he or she transfers.

12 (k) The IPP team shall utilize the person-centered planning  
13 process to develop the IPP for a participant. The IPP shall detail  
14 the goals and objectives of the participant that are to be met through  
15 the purchase of participant-selected services and supports. The  
16 IPP team shall determine the individual budget to ensure the budget  
17 ~~amount~~ assists the participant to achieve the outcomes set forth in  
18 his or her IPP and ensures his or her health and safety. The  
19 completed individual budget shall be attached to the IPP.

20 (l) The participant shall implement his or her IPP, including  
21 choosing and purchasing the services and supports allowable under  
22 this section necessary to implement the plan. A participant is  
23 exempt from the cost control restrictions regarding the purchases  
24 of services and supports pursuant to Sections 4648.5 and 4686.5.  
25 A regional center shall not prohibit the purchase of any service or  
26 support that is otherwise allowable under this section.

27 (m) A participant shall have all the rights established in Sections  
28 4646 to 4646.6, inclusive, and Chapter 7 (commencing with Section  
29 4700).

30 (n) (1) Except as provided in paragraph (4), the IPP team shall  
31 determine the initial and any revised individual budget for the  
32 participant using the following methodology:

33 (A) (i) Except as specified in clause (ii), for a participant who  
34 is a current consumer of the regional center, his or her individual  
35 budget shall be the total amount of the most recently available 12  
36 months of purchase of service expenditures for the participant.

37 (ii) An adjustment may be made to the amount specified in  
38 clause (i) if both of the following occur:

39 ~~(aa)~~

1 (I) The IPP team determines that an adjustment to this amount  
2 is necessary due to a change in the participant's circumstances,  
3 needs, or resources that would result in an increase or decrease in  
4 purchase of service expenditures, or the IPP team identifies prior  
5 needs or resources that were unaddressed in the IPP, which would  
6 have resulted in an increase or decrease in purchase of service  
7 expenditures.

8 ~~(ab)~~

9 (II) The regional center certifies on the individual budget  
10 document that regional center expenditures for the individual  
11 budget, including any adjustment, would have occurred regardless  
12 of the individual's participation in the Self-Determination Program.

13 (iii) For purposes of clauses (i) and (ii), the *amount of the*  
14 individual budget shall not be increased to cover the cost of the  
15 independent facilitator or the financial management services.

16 (B) For a participant who is ~~not a current consumer of the~~  
17 ~~regional center~~ *either newly eligible for regional center services*  
18 *or who does not have 12 months of purchase service expenditures,*  
19 his or her individual budget shall be calculated as follows:

20 (i) The IPP team shall identify the services and supports needed  
21 by the participant and available resources, as required by Section  
22 4646.

23 (ii) The regional center shall calculate the cost of providing the  
24 services and supports to be purchased by the regional center by  
25 using the average cost paid by the regional center for each service  
26 or support unless the regional center determines that the consumer  
27 has a unique need that requires a higher or lower cost. The regional  
28 center shall certify on the individual budget document that this  
29 amount would have been expended using regional center purchase  
30 of service funds regardless of the individual's participation in the  
31 Self-Determination Program.

32 (iii) For purposes of clauses (i) and (ii), the *amount of the*  
33 individual budget ~~amount~~ shall not be increased to cover the cost  
34 of the independent facilitator or the financial management services.

35 (2) The *amount of the* individual budget ~~amount~~ shall be  
36 available to the participant each year for the purchase of program  
37 services and supports. An individual budget shall be calculated no  
38 more than once in a 12-month period, unless revised to reflect a  
39 change in circumstances, needs, or resources of the participant

1 using the process specified in clause (ii) of subparagraph (A) of  
2 paragraph (1).

3 (3) The individual budget shall be assigned to uniform budget  
4 categories developed by the department in consultation with  
5 stakeholders and distributed according to the timing of the  
6 anticipated expenditures in the IPP and in a manner that ensures  
7 that the participant has the financial resources to implement his or  
8 her IPP *throughout the year*.

9 (4) The department, in consultation with stakeholders, may  
10 develop alternative methodologies for individual budgets that are  
11 computed in a fair, transparent, and equitable manner and are based  
12 on consumer characteristics and needs, and that include a method  
13 for adjusting individual budgets to address a participant's change  
14 in circumstances or needs.

15 (o) Annually, participants may transfer up to 10 percent of the  
16 funds originally distributed to any budget category set forth in  
17 paragraph (3) of subdivision (n) to another budget category or  
18 categories. Transfers in excess of 10 percent of the original amount  
19 allocated to any budget category may be made upon the approval  
20 of the regional center or the participant's IPP team.

21 (p) Consistent with the implementation date of the IPP, the IPP  
22 team shall annually ascertain from the participant whether there  
23 are any circumstances or needs that require a change to the annual  
24 individual budget. Based on that review, the IPP team shall  
25 calculate a new individual budget consistent with the methodology  
26 identified in subdivision (n).

27 (q) (1) On or before December 31, 2014, the department shall  
28 apply for federal Medicaid funding for the Self-Determination  
29 Program by doing one or more of the following:

30 (A) Applying for a state plan amendment.

31 (B) Applying for an amendment to a current home- and  
32 community-based waiver for individuals with developmental  
33 disabilities.

34 (C) Applying for a new waiver.

35 (D) *Seeking to maximize federal financial participation through*  
36 *other means*.

37 (2) To the extent feasible, the state plan amendment, waiver, or  
38 other federal request described in paragraph (1) shall incorporate  
39 the eligibility requirements, benefits, and operational requirements  
40 set forth in this section. Except for the provisions of subdivisions

1 (k), (m), (p), and this subdivision, the department may modify  
2 eligibility requirements, benefits, and operational requirements as  
3 needed to secure approval of ~~the Medicaid waiver~~ *federal funding*.

4 (3) Contingent upon approval of federal funding, the  
5 Self-Determination Program shall be established.

6 (r) (1) The department, as it determines necessary, may adopt  
7 regulations to implement the procedures set forth in this section.  
8 Any regulations shall be adopted in accordance with the  
9 requirements of Chapter 3.5 (commencing with Section 11340) of  
10 Part 1 of Division 3 of Title 2 of the Government Code.

11 (2) Notwithstanding paragraph (1) and Chapter 3.5 (commencing  
12 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
13 Government Code, and only to the extent that all necessary federal  
14 approvals are obtained, the department, without taking any further  
15 regulatory action, shall implement, interpret, or make specific this  
16 section by means of program directives or similar instructions until  
17 the time regulations are adopted. It is the intent of the Legislature  
18 that the department be allowed this temporary authority as  
19 necessary to implement program changes only until completion  
20 of the regulatory process.

21 (s) The department, in consultation with stakeholders, shall  
22 develop informational materials about the Self-Determination  
23 Program. The department shall ensure that regional centers are  
24 trained in the principles of self-determination, the mechanics of  
25 the Self-Determination Program, and the rights of consumers and  
26 families as candidates for, and participants in, the  
27 Self-Determination Program.

28 (t) Each regional center shall be responsible for implementing  
29 the Self-Determination Program as a term of its contract under  
30 Section 4629. As part of implementing the program, the regional  
31 center shall do both of the following:

32 (1) Contract with local consumer or family-run organizations  
33 to conduct outreach through local meetings or forums to consumers  
34 and their families to provide information about the  
35 Self-Determination Program and to help ensure that the program  
36 is available to a diverse group of participants, with special outreach  
37 to underserved communities.

38 (2) Collaborate with the local consumer or family-run  
39 organizations identified in paragraph (1) to jointly conduct training  
40 about the Self-Determination Program.

1 (u) The financial management services provider shall provide  
2 the participant and the regional center service coordinator with a  
3 monthly individual budget statement that describes the amount of  
4 funds allocated by budget category, the amount spent in the  
5 previous 30-day period, and the amount of funding that remains  
6 available under the participant's individual budget.

7 (v) Only the financial management services provider is required  
8 to apply for vendorization in accordance with Subchapter 2  
9 (commencing with Section 54300) of Chapter 3 of Title 17 of the  
10 California Code of Regulations, for the Self-Determination  
11 Program. All other service and support providers shall not be on  
12 the federal debarment list and shall have applicable state licenses,  
13 certifications, or other state required documentation, including  
14 documentation of any other qualifications required by the  
15 department, but are exempt from the vendorization requirements  
16 set forth in Title 17 of the California Code of Regulations when  
17 serving participants in the Self-Determination Program.

18 (w) To protect the health and safety of participants in the  
19 Self-Determination Program, the department shall require a  
20 criminal background check in accordance with all of the following:

21 (1) The department shall issue a program directive that identifies  
22 nonvendored providers of services and supports who shall obtain  
23 a criminal background check pursuant to this subdivision. At a  
24 minimum these staff shall include both of the following:

25 (A) Individuals who provide direct personal care services to a  
26 participant.

27 (B) Other nonvendored providers of services and supports for  
28 whom a criminal background check is requested by a participant  
29 or the participant's financial management service.

30 ~~(2) Notwithstanding paragraph (1), a criminal background check~~  
31 ~~is not required pursuant to this subdivision if the provider of~~  
32 ~~services and supports is able to provide in a form that is satisfactory~~  
33 ~~to the department a recent criminal background history or other~~  
34 ~~written document verifying that no criminal history has been~~  
35 ~~recorded, and the department is able to receive subsequent criminal~~  
36 ~~history information about the individual.~~

37 ~~(3) The criminal background check shall be performed and~~  
38 ~~administered consistent with the requirements of subdivision (b)~~  
39 ~~of, and subdivisions (d) to (h), inclusive, of, Section 4689.2, and~~  
40 ~~of Section 4689.6.~~

1 (2) Subject to the procedures and requirements of this  
2 subdivision, the department shall administer criminal background  
3 checks consistent with the department's authority and the process  
4 described in Sections 4689.2 to 4689.6, inclusive.

5 (3) The department shall electronically submit to the Department  
6 of Justice fingerprint images and related information required by  
7 the Department of Justice of nonvendored providers of services  
8 and supports, as specified in paragraph (1), for the purposes of  
9 obtaining information as to the existence and content of a record  
10 of state or federal convictions and state or federal arrests and also  
11 information as to the existence and content of a record of state or  
12 federal arrests for which the Department of Justice establishes  
13 that the person is free on bail or on his or her recognizance  
14 pending trial or appeal.

15 (4) When received, the Department of Justice shall forward to  
16 the Federal Bureau of Investigation requests for federal summary  
17 criminal history information received pursuant to this section. The  
18 Department of Justice shall review the information returned from  
19 the Federal Bureau of Investigation and compile and disseminate  
20 a response to the department.

21 (5) The Department of Justice shall provide a state or federal  
22 response to the department pursuant to paragraph (1) of  
23 subdivision (p) of Section 11105 of the Penal Code.

24 (6) The department shall request from the Department of Justice  
25 subsequent notification service, as provided pursuant to Section  
26 11105.2 of the Penal Code, for persons described in paragraph  
27 (1).

28 (7) The Department of Justice shall charge a fee sufficient to  
29 cover the cost of processing the request described in this  
30 subdivision.

31 ~~(4)~~

32 ~~(8) The financial management service, as the vendored agency,~~  
33 ~~shall submit the fingerprints of any provider of services and~~  
34 ~~supports who is required to obtain a criminal background check~~  
35 ~~shall be submitted to the Department of Justice not later than four~~  
36 ~~calendar days following prior to employment. The costs of the~~  
37 ~~fingerprints and the financial management service's administrative~~  
38 ~~cost authorized by the department shall be paid by the services~~  
39 ~~and supports provider or his or her employing agency. Any~~  
40 ~~administrative costs incurred by the department pursuant to this~~

1 subdivision shall be offset by the funds specified in subdivision  
2 (g).

3 ~~(5) The Department of Justice shall provide a criminal~~  
4 ~~background check to the department and the financial management~~  
5 ~~service as required by paragraph (2) of subdivision (d) of Section~~  
6 ~~4689.2.~~

7 ~~(6) Upon receipt of the criminal record information report~~  
8 ~~showing no criminal history, the financial management service~~  
9 ~~shall advise the participant of that fact.~~

10 ~~(7)~~

11 (9) If the criminal record information report shows a criminal  
12 history, the department shall take the steps specified in Section  
13 4689.2. The department may prohibit a provider of services and  
14 supports from becoming employed, or continuing to be employed,  
15 based on the criminal background check, as authorized in Section  
16 4689.6. The provider of services and supports who has been denied  
17 employment shall have the rights set forth in Section 4689.6.

18 ~~(8)~~

19 ~~(10) The department may permit a provider of services and~~  
20 ~~supports to transfer~~ *utilize a current department-issued criminal*  
21 ~~record clearance from one financial management service or~~  
22 ~~participant to another to enable a provider to serve more than one~~  
23 ~~participant, as long as the criminal record clearance has been~~  
24 ~~processed through the department and no subsequent arrest~~  
25 ~~notifications have been received relative to the cleared applicant.~~

26 ~~(9)~~

27 (11) Consistent with subdivision (h) of Section 4689.2, the  
28 participant or financial management service that denies or  
29 terminates employment based on written notification from the  
30 department shall not incur civil liability or unemployment insurance  
31 liability.

32 (x) To ensure the effective implementation of the  
33 Self-Determination Program and facilitate the sharing of best  
34 practices and training materials commencing with the  
35 implementation of the Self-Determination Program, local and  
36 statewide advisory committees shall be established as follows:

37 (1) Each regional center shall establish a local volunteer advisory  
38 committee to provide oversight of the Self-Determination Program.  
39 The regional center and the area board shall each appoint one-half  
40 of the membership of the committee. The committee shall consist



1 of the regional center clients' rights advocate, consumers, family  
2 members, and other advocates, and community leaders. A majority  
3 of the committee shall be consumers and their family members.  
4 The committee shall reflect the multicultural diversity and  
5 geographic profile of the catchment area. The committee shall  
6 review the development and ongoing progress of the  
7 Self-Determination Program, including whether the program  
8 advances the principles of self-determination and is operating  
9 consistent with the requirements of this section, and may make  
10 ongoing recommendations for improvement to the regional center  
11 and the department.

12 (2) The State Council on Developmental Disabilities shall form  
13 a volunteer committee, to be known as the Statewide  
14 Self-Determination Advisory Committee, comprised of the chairs  
15 of the 21 local advisory committees or their designees. The council  
16 shall convene the Statewide Self-Determination Advisory  
17 Committee twice annually, or more frequently in the sole discretion  
18 of the council. The Statewide Self-Determination Advisory  
19 Committee shall meet by teleconference or other means established  
20 by the council, to identify self-determination best practices,  
21 effective consumer and family training materials, implementation  
22 concerns, systemic issues, ways to enhance the program, and  
23 recommendations regarding the most effective method for  
24 participants to learn of individuals who are available to provide  
25 services and supports. The council shall synthesize information  
26 received from the Statewide Self-Determination Advisory  
27 Committee, local advisory committees, and other sources, shall  
28 share the information with consumers, families, regional centers,  
29 and the department, and shall make recommendations, as  
30 appropriate, to increase the program's effectiveness in furthering  
31 the principles of self-determination.

32 (y) Commencing January 10, 2017, the department shall  
33 annually provide the following information to the appropriate  
34 policy and fiscal committees of the Legislature:

35 (1) Number and characteristics of participants, by regional  
36 center.

37 (2) Types and amount of services and supports purchased under  
38 the Self-Determination Program, by regional center.

39 (3) Range and average of individual ~~budget amounts~~ *budgets*,  
40 by regional center, including adjustments to the ~~budget amounts~~

1 to address ~~unanticipated change in circumstances~~ *the adjustments*  
2 *permitted in clause (ii) of subparagraph (A) of paragraph (1) of*  
3 *subdivision (n).*

4 (4) The number and outcome of *appeals concerning* individual  
5 ~~budget amount appeals~~ *budgets*, by regional center.

6 (5) The number and outcome of fair hearing appeals, by regional  
7 center.

8 (6) The number of participants who voluntarily withdraw from  
9 the Self-Determination Program and a summary of the reasons  
10 why, by regional center.

11 (7) The number of participants who are subsequently determined  
12 to no longer be eligible for the Self-Determination Program and a  
13 summary of the reasons why, by regional center.

14 (z) (1) The State Council on Developmental Disabilities, in  
15 collaboration with the protection and advocacy agency identified  
16 in Section 4900 and the federally funded University Centers for  
17 Excellence in Developmental Disabilities Education, Research,  
18 and Service, may work with regional centers to survey participants  
19 regarding participant satisfaction under the Self-Determination  
20 Program, and, when data is available, the traditional service  
21 delivery system, including the proportion of participants who report  
22 that their choices and decisions are respected and supported and  
23 who report that they are able to recruit and hire qualified service  
24 providers, and to identify barriers to participation and  
25 recommendations for improvement.

26 (2) The council, *in collaboration with the protection and*  
27 *advocacy agency identified in Section 4900 and the federally*  
28 *funded University Centers for Excellence in Developmental*  
29 *Disabilities Education, Research, and Service*, shall issue a report  
30 to the Legislature, in compliance with Section 9795 of the  
31 Government Code, no later than three years following the approval  
32 of the federal funding on the status of the Self-Determination  
33 Program authorized by this section, and provide recommendations  
34 to enhance the effectiveness of the program. This review shall  
35 include the program's effectiveness in furthering the principles of  
36 self-determination, including all of the following:

37 (A) Freedom, which includes the ability of adults with  
38 developmental disabilities to exercise the same rights as all citizens;  
39 to establish, with freely chosen supporters, family and friends,  
40 where they want to live, with whom they want to live, how their

1 time will be occupied, and who supports them; and, for families,  
2 to have the freedom to receive unbiased assistance of their own  
3 choosing when developing a plan and to select all personnel and  
4 supports to further the life goals of a minor child.

5 (B) Authority, which includes the ability of a person with a  
6 disability, or family, to control a certain sum of dollars in order to  
7 purchase services and supports of their choosing.

8 (C) Support, which includes the ability to arrange resources and  
9 personnel, both formal and informal, that will assist a person with  
10 a disability to live a life in his or her community that is rich in  
11 community participation and contributions.

12 (D) Responsibility, which includes the ability of participants to  
13 take responsibility for decisions in their own lives and to be  
14 accountable for the use of public dollars, and to accept a valued  
15 role in their community through, for example, competitive  
16 employment, organizational affiliations, spiritual development,  
17 and general caring of others in their community.

18 (E) Confirmation, which includes confirmation of the critical  
19 role of participants and their families in making decisions in their  
20 own lives and designing and operating the system that they rely  
21 on.